

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

JOHN THORPE CHRISTIE,

Petitioner,

vs.

GREG SMITH, *et al.*,

Respondents.

3:11-cv-00581-LRH-VPC

ORDER

This action is a *pro se* petition for a writ of habeas corpus filed pursuant to 28 U.S.C. § 2254, by a Nevada state prisoner. This action proceeds on the petition, which this Court received on August 9, 2011. (ECF No. 6). This order addresses pending motions and sets scheduling deadlines.

Respondents have moved to dismiss the petition, arguing that petitioner failed to exhaust the equal protection portions of Grounds 2 and 4 of the petition. (ECF No. 19). Respondents argue that the entirety of Ground 6 is unexhausted. (*Id.*). Respondents further argue that Grounds 3 and 4 of the petition are redundant. (*Id.*).

Petitioner has filed a combined opposition to the motion to dismiss and a motion to strike portions of the petition. (ECF Nos. 34 & 35). In the opposition, petitioner agrees that the equal protection portion of his claims in Grounds 2 and 4 are unexhausted. (*Id.*, at pp. 3-5). Petitioner also agrees that Grounds 3 and 4 of the petition are redundant. (*Id.*). Petitioner asks the Court to strike the equal protection portions of Grounds 2, 4, and 6, and asks the court to strike Ground 3 as redundant. (*Id.*, at pp. 4). Petitioner has also filed a motion for voluntary abandonment of Ground 3

1 in its entirety and of the equal protection portions of Grounds 2 and 4. (ECF No. 37). Petitioner has
2 further filed a motion for voluntary abandonment of Ground 6 in its entirety. (ECF No. 36).

3 **IT IS THEREFORE ORDERED** that respondents' motion to dismiss (ECF No. 19) certain
4 claims, as specified below, is **GRANTED**.

5 **IT IS FURTHER ORDERED** that petitioner's motion to strike portions of the petition
6 (ECF No. 34) is **GRANTED**.

7 **IT IS FURTHER ORDERED** that petitioner's motion to voluntarily abandon the
8 unexhausted equal protection portions of Grounds 2 and 4, and the entirety of Ground 3 (ECF No.
9 37) is **GRANTED**. Petitioner's motion to voluntarily abandon the entirety of Ground 6 (ECF No.
10 36) is **GRANTED**.

11 **IT IS FURTHER ORDERED** that the following grounds are **STRICKEN** from the
12 petition: (a) the equal protection portions of Grounds 2 and 4; (b) the entirety of Ground 3; and
13 (c) the entirety of Ground 6.

14 **IT IS FURTHER ORDERED** that respondents **SHALL FILE AN ANSWER** as to all
15 remaining grounds of the petition within **thirty (30) days** from the entry of this order. The answer
16 shall include substantive arguments on the merits as to each remaining claim in the petition. **No**
17 **further motions to dismiss will be entertained**. In filing the answer, respondents shall comply
18 with the requirements of Rule 5 of the Rules Governing Proceedings in the United States District
19 Courts under 28 U.S.C. §2254.

20 **IT IS FURTHER ORDERED** that petitioner shall file his reply to the answer no later than
21 **thirty (30) days** after being served with the answer.

22 DATED this 28th day of January, 2013.



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25 LARRY R. HICKS
26 UNITED STATES DISTRICT JUDGE
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